



INFORMATION SHEET

Serving the People of California

TAXABILITY OF EMPLOYEE BENEFITS

WHAT ARE EMPLOYEE BENEFITS?

Any benefit provided or paid by the employer for the benefit of the employee or his family. Benefits are generally included in the employee's wage for tax purposes, except those which qualify for an exclusion.

WHO ARE EMPLOYEES?

Employee means any individual who is an officer of a corporation, who is an employee under common law rules, or who is specifically an employee by law (see Information Sheet on Employment, DE 231).

The term employee for the following FRINGE BENEFIT purposes has different meanings:

- For no-additional cost services and qualified employee discounts, the term includes the employee who is currently employed, a former employee who is separated from service by reason of retirement or disability and any widow or widower of an employee who died while employed by the employer or who separated from service by reason of retirement or disability.
- For working condition fringe, the term employee includes any current employee, any partner who performs services for the partnership, any director of the employer, and any independent contractor who performs services for the employer.
- For on-premises athletic facility, the term employee includes the employee who is currently employed, a former employee who is separated from service by reason of retirement or disability, and any widow or widower of an employee who died while employed by the employer or who separated from service by reason of retirement or disability. The term employee also includes any partner who performs service for a partnership and any spouse or dependent child of the employee.

WHAT ARE WAGES?

Wages are payments made to an employee for his or her personal services, including commissions, bonuses, and the reasonable cash value of all amounts paid to employees in any medium other than cash (e.g., taxable benefits).

FEDERAL TAXABILITY!

Reference to the taxability of benefits is based upon the California Employment Development Department's understanding of federal law and may not be the same as the federal interpretation. We recommend that you contact the Internal Revenue Service to confirm the correct interpretation of federal law.

WHAT ARE BENEFITS THAT QUALIFY FOR EXCLUSION FROM INCOME?

Wages do not include any benefit that is qualified for exclusion from income. To be qualified, the benefit must be specifically excluded from wages (income) in the California Unemployment Insurance Code (CUIC), or be excluded in the CUIC by reference to the Revenue and Taxation Code or the Internal Revenue Code.

Benefits may be excluded from wages in full, partially, or only to the extent that certain conditions are met.

The following summary of excluded benefits does not explain the conditions for the exclusion, but rather states the taxability of the benefit when all of the required conditions are met.

Benefits may be **subject** to California tax, or **exempt** from tax for Unemployment Insurance (**UI**), Employment Training Tax (**ETT**), State Disability Insurance (**SDI**), and benefits may be subject or not subject to withholding for Personal Income Tax (**PIT**) purposes. Benefits may be **subject** to federal tax, or **exempt** from tax for Federal Unemployment Tax Act (**FUTA**), and Social Security/Medicare Federal Insurance Contribution Act (**FICA**), and benefits may be **subject** or **not subject** to withholding for Federal Income Tax (**FIT**) purposes.

TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
	UI/ETT	SDI	PIT	FUTA	FICA	FIT

ACHIEVEMENT AWARDS

- Qualified plan awards not to exceed \$1,600.
- Non-qualified awards of \$400 or less.

Awards given in the form of tangible personal property (other than cash or securities).

The maximum award amounts have been in effect since January 1, 1987.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject

ADOPTION ASSISTANCE

- A program for the exclusion of qualified adoption expense from an employee's salary of up to \$5,000 per child.

Subject	Subject	Subject	Subject	Subject	Not Subject
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CAFETERIA PLANS

- Employer contributions for benefits excludable from gross income.
- Employee salary reductions to a qualified Section 401 (k) Internal Revenue Code, retirement program.
- Employee salary reduction for dependent care assistance, accident, health; group legal, *and/or life insurance.
- Employer paid vacation.
- Cash payments in lieu of qualified benefits.
- Adoption assistance.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
Subject	Subject	Not Subject	Subject	Subject	Not Subject
Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
Subject	Subject	Subject	Subject	Subject	Subject
Subject	Subject	Subject	Subject	Subject	Subject
Subject	Subject	Not Subject	Not Subject	Not Subject	Not Subject

***The exemption for a qualified group legal service plan expired June 30, 1992.**

***Adoption assistance program payments from a cafeteria plan are Not subject to UI, ET DI, and PIT withholding purposes.**

DEPENDENT CARE ASSISTANCE

- Employer payments not to exceed \$5,000. The maximum assistance has been in effect since January 1, 1987.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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EDUCATIONAL ASSISTANCE

- Employer payments not to exceed \$5,250. The maximum assistance has been in effect since January 1, 1987.

Subject*	Subject*	Not Subject**	Subject	Not Subject	Subject
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The exempt status was reinstated for state purposes on January 1, 1995 when Section 127 IRC was reenacted into law.

***Payments for undergraduate students are excluded from UI/ETT and DI from 8/20/96 to 6/30/97 only. There is no exclusion for graduate students for UI/ETT and DI.**

****Payments to undergraduates are excluded from 1/1/95 onward for PIT, while payments to graduates are only excluded for PIT purposes from 1/1/95 to 6/30/96.**

FRINGE BENEFITS

No Additional Cost Services:

- Service* provided to an employee when the employer incurs no substantial additional cost in providing the service and the service is offered to customers in the ordinary course of the employer's business.

***Excess capacity airline, bus, train and subway tickets; meals; hotel rooms, etc.**

Qualified Employee Discounts:

- Discounts* offered to employees for the same services or merchandise offered to customers in the ordinary course of the employer's business.

***The maximum discounts are 20 percent on services or the gross profit percentage on merchandise.**

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
	UI/ETT	SDI	PIT	FUTA	FICA	FIT

FRINGE BENEFITS (Continued)

Working Condition Fringes:

- Any property or service that would be allowable to the employee as a business expense or as a depreciation deduction.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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Business use of an employer provided vehicle or use of a qualified demonstration automobile. Educational and training provided to the employee which are not excludable from gross income under Section 127 of the Internal Revenue Code.

De Minimis Fringes:

- The value of property or service which is so small as to make accounting for it unreasonable or administratively impracticable.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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Coffee, doughnuts, and soft drinks; qualified meals provided at an employer operated cafeteria; awards and prizes of nominal value

Qualified Athletic Facility.

- Any gym or other athletic facility provided by an employer to its employees.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
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The employer must own or lease the facilities; operate or contract out the operation; and substantially all use of the facility during the calendar year is by employees of the employer, their spouses, and their dependent children.

Qualified Transportation Reimbursements.

- Employee commuting benefits.

Exempt	Exempt	Not Subject*	Exempt	Exempt	Not Subject
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Transit passes, token, cash reimbursements for mass transit use, and vanpooling, up to a fair market value of \$60 per month. Employer-provided parking, up to a fair market value of \$155 per month, including reimbursement for parking fees.

***For PIT purposes only, there are no monetary limits.**

Qualified Moving Expense Reimbursement.

- Any amount which would be deductible as a moving expense under Section 217 of the Internal Revenue Code (IRC).

Exempt	Exempt	Not Subject*	Exempt	Exempt	Not Subject
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***For PIT purposes only, as of January 1, 1996, California conforms to Federal law under Section 217 of the Internal Revenue Code. For UI, ETT and DI there is an exemption if at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under Section 217 of the IRC (Section 937 CUIC).**

HEALTH, SICKNESS, ACCIDENT, DENTAL AND OPTICAL PLANS

- Employer contributions to a qualified plan.
- Employee salary reduction payments to a qualified plan.*

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
Subject	Subject	Subject	Subject	Subject	Subject

***Contributions are exempt when included in a qualified Cafeteria Plan.**

GROUP LEGAL SERVICES

- Limited to annual premium value of \$70.

Subject	Subject	Subject	Subject	Subject	Subject
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EXEMPTION FOR GROUP LEGAL SERVICES EXPIRED ON JUNE 30, 1992.

LIFE INSURANCE

- Group term insurance with a face amount of \$50,000 or less.
- Group term insurance with a face amount in excess of \$50,000.
- All other life insurance premiums.

Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
Exempt	Exempt	Not Subject*	Exempt	Subject	Not Subject
Exempt	Exempt	Subject	Subject	Subject	Subject

***Although PIT withholding is not required, it is reportable as PIT wages.**

TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
	UI/ETT	SDI	PIT	FUTA	FICA	FIT

MEALS AND LODGING <ul style="list-style-type: none"> Meals furnished for the employer's convenience and on the employer's premises. Lodging furnished for the employer's convenience, on the employer's premises, and as a condition of employment. 	Subject	Subject	Not Subject	Exempt	Exempt	Not Subject
	Subject	Subject	Not Subject	Exempt	Exempt	Not Subject
MEDICAL SAVINGS ACCOUNT <ul style="list-style-type: none"> Employee contributions Employer contributions 	Subject	Subject	Subject	Subject	Subject	Subject
	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
MOVING EXPENSES <ul style="list-style-type: none"> Employer paid or reimbursed expenses for moving household goods, personal effects and traveling expense. <p>*For PIT purposes only, as of January 1, 1996, California conforms to Federal law under Section 217 of the Internal Revenue Code. For UI, ETT and DI there is an exemption if at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under Section 217 of the IRC (Section 937 CUIC).</p>	Exempt	Exempt	Not Subject*	Exempt	Exempt	Not Subject
RETIREMENT PLANS <ul style="list-style-type: none"> Employer contributions to a qualified plan. Employee salary reduction contributions to a qualified plan. Contributions to a nonqualified deferred compensation plan. 	Exempt	Exempt	Not Subject	Exempt	Exempt	Not Subject
	Subject	Subject	Subject	Subject	Subject	Subject
	Subject	Subject	Not Subject	Subject	Subject	Not Subject
SCHOLARSHIPS AND FELLOWSHIPS <ul style="list-style-type: none"> Qualified tuition and related expenses. 	Exempt	Exempt	Not Subject*	Exempt	Exempt	Not Subject
VACATION AND SICK PAY <ul style="list-style-type: none"> Employer paid vacation. Vacation and sick pay earned but not paid until after termination of employment. Sick leave payments for the first full six calendar months. Sick payments made a full six calendar months following the last month in which the employee performed services. Third-party payments of sick pay. <p>*Exempt if payments are made more than six months after the last calendar month in which the employee worked.</p>	Subject	Subject	Subject	Subject	Subject	Subject
	Exempt	Exempt	Subject	Subject	Subject	Subject
	Subject	Subject	Subject	Subject	Subject	Subject
	Exempt	Exempt	Subject	Exempt	Exempt	Subject
	Subject*	Exempt	Not Subject	Subject	Subject	Not Subject

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities. TDD Users, contact the California Relay Service: 1-800-735-2929.